IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH CAROLINA FLORENCE DIVISION

Maurice Geter,)	Civil Action No. 4:05-3283-CMC-TER
)	
Plaintiff, v.)	
)	
)	OPINION AND ORDER
)	
SCDC Anthony Padula,)	
Donna Mitchell, Arenda)	
Thomas,)	
Defendants.)	
)	

This action was filed in the Court of Common Pleas in Lee County, South Carolina, on September 10, 2005. Defendants filed a Notice of Removal to this court on November 23, 2005, on grounds that Plaintiff is seeking relief pursuant to the Constitution of the United States and federal statutes and authorities. Plaintiff, who is proceeding *pro se*, filed a "reply and objection to notice of removal" on December 7, 2005, stating that "all federal causes of action is deemed waived, the Plaintiff holds the position by way of his amended complaint¹ . . ." Defendants filed a "Return to Plaintiff's Reply and Objection to Notice of Removal on December 27, 2005, stating that they "consent to the remand of this action to the Third Judicial Circuit should paragraph one of the Amended Complaint be stricken." Plaintiff filed another response in which he again states that he waives all federal causes of action

In accordance with this court's order of reference, 28 U.S.C. § 636(b)(1)(B) and Local Rule 73.02(B)(2)(d), this matter was referred to United States Magistrate Judge Thomas E. Rogers, III, for a Report and Recommendation. The Magistrate Judge filed his Report May 9, 2006, and the

¹Apparently, the state court had not ruled on Plaintiff's proposed amended complaint before the removal.

matter is now ready for a ruling.

This court is charged with making a *de novo* determination of any portion of the Report and Recommendation of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b). The court reviews only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that "in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.") (quoting Fed. R. Civ. P. 72 advisory committee's note).

Based on his review of the record, the Magistrate Judge has recommended that Plaintiff's motion to amend his complaint be granted with paragraph one stricken and the case remanded to the Court of Common Pleas, Third Judicial Circuit of the State of South Carolina, Lee County pursuant to the consent of the parties. The Magistrate Judge advised the parties of their right to file objections to the Report and the serious consequences of a failure to do so. No objections have been filed and the time for doing so has expired.²

After reviewing the Complaint, the Removal Petition, the responses and replies, the proposed Amended Complaint and the Report and Recommendation of the Magistrate Judge, the court finds no clear error. Accordingly, the Report and Recommendation of the Magistrate Judge is adopted and incorporated by reference.

IT IS HEREBY ORDERED that Plaintiff's motion to amend his complaint be GRANTED

²Plaintiff's copy of the Report and Recommendation was returned to the Clerk's Office marked "Unknown - Must have SCDC #."

with paragraph one stricken, and it is

FURTHER ORDERED that this case is **REMANDED** to the Court of Common Pleas, Third Judicial Circuit of the State of South Carolina, Lee County, pursuant to the consent of the parties.

IT IS SO ORDERED.

s/ Cameron McGowan Currie CAMERON MCGOWAN CURRIE UNITED STATES DISTRICT JUDGE

Columbia, South Carolina June 22, 2006